IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1018 OF 2005

Lalbahadur Triveniprasad Jaiswal ...Petitioner

Versus

The Additional District Collector
(Enc. & Removal) & Ors. ...Respondents

Shri Santosh B. Narwade i/by M/s M.P.Vashi & Associates for the Petitioner.
Ms Mhaisapurkar, A.G.P for the Respondent Nos.1 to 3 and 5.

CORAM : ABHAY S.OKA, J.
DATED : APRIL 19, 2007.

P.C.:

1. Heard Advocate for the Petitioner. The Petitioner has been held eligible for allotment of a residential accommodation in a slum rehabilitation scheme. As he did not vacate the hut/strucrure in his possession, proceedings under section 33 read with section 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 , were initiated. The Competent Authority (Additional Collector, Encroachments) passed an order on 06th December, 2004 directing the eviction of the Petitioner and others. An Appeal was preferred under section 35 of the said Act of 1971 for challenging the said order.

2. The said Appeal has been dismissed. The learned Advocate for the Petitioner stated that now the Petitioner has been dispossessed and the structure has been demolished on the basis of the order passed by the competent authority. His submission is that the Petitioner ought to have been held eligible for an allotment of a commercial unit but he has been held eligible for a residential unit. He, therefore, submitted that interference at the hands of this Court is required in this matter.

2. I have considered the submissions. While dismissing the Appeal preferred by the Petitioner for challenging the order of eviction, the Appellate Authority has observed that if according to the Petitioner he is qualified and eligible for allotment of a commercial unit, he should have preferred an Appeal before the Slum Rehabilitation Authority. The Appellate Authority has noted that the Appeal was concerning only the action of eviction of the Petitioner and others as they were not co-operating by vacating the structures held by them for facilitating implementation of the Slum Rehabilitation Scheme.

3. As the order of Competent Authority is already implemented, no purpose will be served by entertaining this Writ Petition. In view of the observation made by the Appellate Authority which is referred to above, the Petitioner can agitate issue of his alleged entitlement to a commercial unit by filing an appropriate proceeding before the concerned authority.

4. In view of the aforesaid discussion, there is no merit in the Writ Petition and the same is rejected.

JUDGE